



February 22, 2002

ENGROSSED HOUSE BILL No. 1341

DIGEST OF HB 1341 (Updated February 21, 2002 11:33 AM - DI 104)

Citations Affected: IC 27-1; IC 27-13; noncode.

Synopsis: HMO risk based capital. Applies the risk based capital requirements for insurance companies to health maintenance organizations (HMOs) and limited service health maintenance organizations (LSHMOs), effective December 31, 2004. Allows the insurance commissioner to exempt certain HMOs and LSHMOs from the requirements. Requires an HMO and an LSHMO to file an informational risk based capital report in 2002, 2003, and 2004 for the immediately preceding calendar year.

Effective: Upon passage; December 31, 2004.

Bardon

(SENATE SPONSOR — CLARK)

January 15, 2002, read first time and referred to Committee on Insurance, Corporations and Small Business.

January 29, 2002, amended, reported — Do Pass.

February 4, 2002, read second time, ordered engrossed.

February 5, 2002, engrossed. Read third time, passed. Yeas 95, nays 0.

SENATE ACTION

February 11, 2002, read first time and referred to Committee on Insurance and Financial Institutions.

February 21, 2002, reported favorably — Do Pass.

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February 22, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

ENGROSSED HOUSE BILL No. 1341

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-1-36-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE DECEMBER 31, 2004]: Sec. 1. The
3 commissioner may exempt from the application of this chapter:

4 (1) A domestic property and casualty insurer that:

5 (1) (A) writes direct business only in Indiana;

6 (2) (B) receives annual premiums from direct business written
7 of not more than two million dollars (\$2,000,000); and

8 (3) (C) assumes no reinsurance in excess of five percent (5%)
9 of direct business written.

10 (2) A health maintenance organization that:

11 (A) operates only in Indiana; and

12 (B) receives annual subscriber premiums (as defined in
13 IC 27-13-1-33) of not more than two million dollars
14 (\$2,000,000).

15 (3) A limited service health maintenance organization that:

16 (A) operates only in Indiana;

17 (B) receives annual subscriber premiums (as defined in

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1 **IC 27-13-1-33) of not more than two million dollars**
 2 **(\$2,000,000); and**

3 **(C) covers not more than two thousand (2,000) enrollees.**

4 SECTION 2. IC 27-1-36-8 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE DECEMBER 31, 2004]: Sec. 8. As used in
 6 this chapter, "domestic insurer" means any:

7 **(1) insurance company;**

8 **(2) health maintenance organization; or**

9 **(3) limited service health maintenance organization;**

10 that is domiciled in Indiana.

11 SECTION 3. IC 27-1-36-9 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE DECEMBER 31, 2004]: Sec. 9. As used in
 13 this chapter, "foreign insurer" means **the following:**

14 **(1) An insurer that is:**

15 ~~(A)~~ **(A)** licensed to do business in Indiana under IC 27-1-17;
 16 but

17 ~~(B)~~ **(B)** not a domestic insurer.

18 **(2) A health maintenance organization that:**

19 **(A) is organized under the laws of a state other than**
 20 **Indiana, a territory or another insular possession of the**
 21 **United States, or the District of Columbia; and**

22 **(B) has obtained a certificate of authority under**
 23 **IC 27-13-2.**

24 **(3) A limited service health maintenance organization that:**

25 **(A) is organized under the laws of a state other than**
 26 **Indiana, a territory or another insular possession of the**
 27 **United States, or the District of Columbia; and**

28 **(B) has obtained a certificate of authority under**
 29 **IC 27-13-34.**

30 SECTION 4. IC 27-1-36-9.4 IS ADDED TO THE INDIANA CODE
 31 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
 32 DECEMBER 31, 2004]: **Sec. 9.4. As used in this chapter, "health**
 33 **maintenance organization" has the meaning set forth in**
 34 **IC 27-13-1-19.**

35 SECTION 5. IC 27-1-36-9.6 IS ADDED TO THE INDIANA CODE
 36 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
 37 DECEMBER 31, 2004]: **Sec. 9.6. As used in this chapter, "insurer"**
 38 **includes:**

39 **(1) a health maintenance organization; and**

40 **(2) a limited service health maintenance organization.**

41 SECTION 6. IC 27-1-36-9.8 IS ADDED TO THE INDIANA CODE
 42 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE

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DECEMBER 31, 2004]: **Sec. 9.8. As used in this chapter, "limited service health maintenance organization" has the meaning set forth in IC 27-13-34-4.**

SECTION 7. IC 27-1-36-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2004]: Sec. 15. As used in this chapter, "property and casualty insurer" means an insurer that is authorized to make one (1) or more of the types of insurance described in Class 2 and Class 3 of IC 27-1-5-1. The term does not include the following:

(1) A monoline mortgage guaranty insurer.

(2) A financial guaranty insurer.

(3) A title insurer.

(4) A health maintenance organization.

(5) A limited service health maintenance organization.

SECTION 8. IC 27-1-36-26.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2004]: **Sec. 26.1. A health maintenance organization's RBC and a limited service health maintenance organization's RBC must be determined in accordance with the formula set forth in the RBC instructions for a health maintenance organization and a limited service health maintenance organization. The formula must take into account (and may adjust for the covariance between):**

(1) affiliation investment risk;

(2) asset risk;

(3) credit risk;

(4) underwriting risk; and

(5) all other business risks and such other relevant risks as are set forth in the RBC instructions;

determined by applying the factors in the manner set forth in the RBC instructions.

SECTION 9. IC 27-1-36-42.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2004]: **Sec. 42.1. (a) If a mandatory control level event occurs with respect to a health maintenance organization or a limited service health maintenance organization, the commissioner shall take the action necessary to place the health maintenance organization or limited service health maintenance organization under regulatory control under IC 27-13.**

(b) A mandatory control level event is sufficient grounds for the commissioner to take action against a health maintenance organization or a limited service health maintenance organization



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under IC 27-13 and the commissioner has the rights, powers, and duties with respect to the health maintenance organization or limited service health maintenance organization that are set forth in IC 27-13.

(c) If the commissioner takes action against a health maintenance organization or a limited service health maintenance organization under an adjusted RBC report, the health maintenance organization or limited service health maintenance organization is entitled to the protections under IC 27-9-2 pertaining to summary proceedings.

(d) The commissioner may forego action under subsections (a) through (c) for not more than ninety (90) days after the mandatory control level event if the commissioner finds that there is a reasonable expectation that the mandatory control level event may be eliminated within the ninety (90) day period.

SECTION 10. IC 27-13-8-2, AS AMENDED BY P.L.203-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2004]: Sec. 2. (a) In addition to the report required by section 1 of this chapter, a health maintenance organization shall each year file with the commissioner the following:

(1) Audited financial statements of the health maintenance organization for the preceding calendar year prepared in conformity with statutory accounting practices prescribed or otherwise permitted by the department.

(2) A list of participating providers who provide health care services to enrollees or subscribers of the health maintenance organization.

(3) A description of the grievance procedure of the health maintenance organization:

(A) established under IC 27-13-10, including:

(i) the total number of grievances handled through the procedure during the preceding calendar year;

(ii) a compilation of the causes underlying those grievances; and

(iii) a summary of the final disposition of those grievances; and

(B) established under IC 27-13-10.1, including:

(i) the total number of external grievances handled through the procedure during the preceding calendar year;

(ii) a compilation of the causes underlying those grievances; and

(iii) a summary of the final disposition of those grievances;



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for each independent review organization used by the health maintenance organization during the reporting year.

(4) The percentage of providers credentialed by the health maintenance organization according to the most current standards or guidelines, if any, developed by the National Committee on Quality Assurance or a successor organization.

(5) The RBC report required under IC 27-1-36-25.

(6) The health maintenance organization's Health Plan Employer Data and Information Set (HEDIS) data.

(b) The information required by subsection (a)(2) through ~~(a)(4)~~ **(a)(5)** must be filed with the commissioner on or before March 1 of each year. The audited financial statements required by subsection (a)(1) must be filed with the commissioner on or before June 1 of each year. The health maintenance organization's HEDIS data required by subsection ~~(a)(5)~~ **(a)(6)** must be filed with the commissioner on or before July 1 of each year. The commissioner shall:

(1) make the information required to be filed under this section available to the public; and

(2) prepare an annual compilation of the data required under ~~subsection~~ **subsections** (a)(3), ~~through (a)(5)~~ **(a)(4), and (a)(6)** that allows for comparative analysis.

(c) Upon a determination by a health maintenance organization's auditor that the health maintenance organization:

(1) does not meet the requirements of IC 27-13-12-3; or

(2) is in the condition described in IC 27-13-24-1(a)(5);

the health maintenance organization shall notify the commissioner within five (5) business days after the auditor's determination.

(d) The commissioner may require any additional reports as are necessary and appropriate for the commissioner to carry out the commissioner's duties under this article.

SECTION 11. IC 27-13-29-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2004]: **Sec. 4. A:**

(1) health maintenance organization; or

(2) limited service health maintenance organization;

that is domiciled in Indiana is subject to the risk based capital requirements of IC 27-1-36, unless exempted by the commissioner under IC 27-1-36-1.

SECTION 12. IC 27-13-34-12, AS AMENDED BY P.L.133-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2004]: **Sec. 12. A** limited service health maintenance organization operated under this chapter is subject to the following:

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(1) **IC 27-1-36 concerning risk based capital, unless exempted by the commissioner under IC 27-1-36-1.**

(2) **IC 27-13-8, except for ~~IC 27-13-8-2(a)(5)~~ IC 27-13-8-2(a)(6)** concerning reports.

~~(2)~~ (3) **IC 27-13-9-3 concerning termination of providers.**

~~(3)~~ (4) **IC 27-13-10-1 through IC 27-13-10-3 concerning grievance procedures.**

~~(4)~~ (5) **IC 27-13-11 concerning investments.**

~~(5)~~ (6) **IC 27-13-15-1(a)(2) through IC 27-13-15-1(a)(3)** concerning gag clauses in contracts.

~~(6)~~ (7) **IC 27-13-21 concerning producers.**

~~(7)~~ (8) **IC 27-13-29 concerning statutory construction and relationship to other laws.**

~~(8)~~ (9) **IC 27-13-30 concerning public records.**

~~(9)~~ (10) **IC 27-13-31 concerning confidentiality of medical information and limitation of liability.**

~~(10)~~ (11) **IC 27-13-36-5 and IC 27-13-36-6 concerning referrals to out of network providers and continuation of care.**

~~(11)~~ (12) **IC 27-13-40 concerning comparison sheets of services provided by the limited service health maintenance organization.**

SECTION 13. [EFFECTIVE UPON PASSAGE] (a) Not later than May 1 of each of the calendar years 2002, 2003, and 2004, a health maintenance organization shall file an informational report for the immediately preceding calendar year. The report must set forth the types of information that will be required under IC 27-1-36-25 after December 30, 2004.

(b) Not later than May 1 of each of the calendar years 2002, 2003, and 2004, a limited service health maintenance organization shall file an informational report for the immediately preceding calendar year. The report must set forth the types of information that will be required under IC 27-1-36-25 after December 30, 2004.

(c) This SECTION expires December 31, 2005.

SECTION 14. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1341, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective dates in SECTIONS 1 through 10 with "[EFFECTIVE DECEMBER 31, 2004]".

Page 3, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 8. IC 27-1-36-26.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2004]: **Sec. 26.1. A health maintenance organization's RBC and a limited service health maintenance organization's RBC must be determined in accordance with the formula set forth in the RBC instructions for a health maintenance organization and a limited service health maintenance organization. The formula must take into account (and may adjust for the covariance between):**

- (1) affiliation investment risk;**
- (2) asset risk;**
- (3) credit risk;**
- (4) underwriting risk; and**
- (5) all other business risks and such other relevant risks as are set forth in the RBC instructions;**

determined by applying the factors in the manner set forth in the RBC instructions.

SECTION 9. IC 27-1-36-42.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2004]: **Sec. 42.1. (a) If a mandatory control level event occurs with respect to a health maintenance organization or a limited service health maintenance organization, the commissioner shall take the action necessary to place the health maintenance organization or limited service health maintenance organization under regulatory control under IC 27-13.**

(b) A mandatory control level event is sufficient grounds for the commissioner to take action against a health maintenance organization or a limited service health maintenance organization under IC 27-13 and the commissioner has the rights, powers, and duties with respect to the health maintenance organization or limited service health maintenance organization that are set forth in IC 27-13.

(c) If the commissioner takes action against a health maintenance organization or a limited service health maintenance



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organization under an adjusted RBC report, the health maintenance organization or limited service health maintenance organization is entitled to the protections under IC 27-9-2 pertaining to summary proceedings.

(d) The commissioner may forego action under subsections (a) through (c) for not more than ninety (90) days after the mandatory control level event if the commissioner finds that there is a reasonable expectation that the mandatory control level event may be eliminated within the ninety (90) day period."

Page 5, line 21, delete "May 1, 2002," and insert "**May 1 of each of the calendar years 2002, 2003, and 2004,**".

Page 5, line 22, after "for the" insert "**immediately preceding**".

Page 5, line 22, delete "ending December 31," and insert ".".

Page 5, line 23, delete "2001."

Page 5, line 24, delete "December 30, 2002." and insert "**December 30, 2004.**".

Page 5, line 25, delete "May 1, 2002," and insert "**May 1 of each of the calendar years 2002, 2003, and 2004,**".

Page 5, line 26, after "for the" insert "**immediately preceding**".

Page 5, line 27, delete "ending December 31, 2001." and insert ".".

Page 5, line 29, delete "December 30, 2002." and insert "**December 30, 2004.**".

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1341 as introduced.)

CROOKS, Chair

Committee Vote: yeas 11, nays 0.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1341, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1341 as printed January 30, 2002.)

PAUL, Chairperson

Committee Vote: Yeas 11, Nays 0.

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